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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/067,174 | 02/04/2002 | Ronny L. Knak | 32204 | 4911 |

7590 12/20/2004
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EXAMINER

HARTMANN, GARY S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3671

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/067,174 | Applicant(s) KNAK ET AL. | |
| | Examiner Gary Hartmann | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 11 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the frame including no more than three sides set within the watercourse must be shown or the feature canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 36 is objected to because it is not clear how no more than three sides are within the watercourse. Additionally, the verb "sets" doesn't agree with the noun since "sets" is singular, whereas the subject "sides" is plural. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows (U.S. Patent 386,768) in view of Paasch (U.S. Patent 4,046,482).

Burrows discloses a drainage system grate assembly having a frame (4) with a grate (9) set therein (Figure 2). There is a crossbar (not labeled, vertical members of Figure 2) and a locking element (10-14) operable to interface with the frame so as to secure each crossbar to the frame (Figure 2). Burrows does not show tread bars supported by and positioned on top of the cross bars; however, it is common to do so in order to reduce the size of object allowed through the grate assembly, as exemplified by Paasch. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned tread bars in the manner claimed on the crossbars of Burrows for this purpose.

Burrows shows a horizontal ledge (9) and a shelf (not labeled, vertical crossbar) extending downwardly therefrom.

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There are a plurality of upstanding members (6) positioned adjacent each other along the length of the crossbar (Figure 3).

Given the combination of Burrows and Paasch, the limitations of claim 33 would be met.

Regarding claim 34, it is well known to use a flange in order to increase structural rigidity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a flange with Burrows for this purpose.

The locking element includes an upturned vertical member (Figures 2 and 3).

Regarding claims 36 and 37, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned Burrows in the manner claimed in order to meet particular design criteria. Further regarding claim 37, note that this is simply a duplication of the assembly and, therefore, not patentably distinguishable from the assembly itself.

Burrows meets the recitations of claim 38.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows and Paasch as applied above, and further in view of Thomann et al. (U.S. Patent 4,515,498).

The length of the bar of Burrows is not at least the same as the crossbar. Thomann et al. teaches a bar (18) having this length (Figure 1, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the configuration of Thomann et al. with the lock of Burrows in order to more firmly secure both sides of the grate.

Response to Arguments

Applicant's arguments filed October 7, 2004 have been considered but are moot in view of the new grounds of rejection.

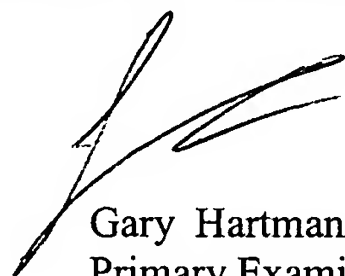
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Hartmann
Primary Examiner
Art Unit 3671

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